

Docket No.: 07200/076001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Eitora Yamamura et al.

Confirmation No.: 9746

Application No.: 10/577,296

Art Unit: 1652

22511

PATENT TRADEMARK OFFICE

Filed: April 28, 2006

Examiner: Mohammad Y. Meah

For: NOVEL PLASMIDS AND UTILIZATION
THEREOF

REPLY TO RESTRICTION REQUIREMENT

M/S: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement dated November 1, 2007, Applicant respectfully submits the following:

Applicant respectfully notes that the International Searching Authority (ISA) found 3 inventions in this application, not 31 inventions as asserted by the Examiner, as follows:

- (1) the inventions relating to plasmid pRET1100, etc.;
- (2) the inventions relating to plasmid pRET1000, etc.; and
- (3) the inventions relating to a DNA fragments of SEQ ID NO: 77, etc.

SEQ ID NO: 73 is the full length sequence of pRET1100, and SEQ ID NO: 1-37 and 76 are partial sequences of pRET1100. The claims relating to pRET1100 and its partial sequences are claims 1-11, 17, 24, and 27-38.

For International applications and national stage filings of international applications under 35 U.S.C. 371, unity of invention determination will be made in view of PCT Rule 13.2, 37 CFR 1.475 and Chapter 10 of the ISPE Guidelines. Unity of invention will exist when the polynucleotide molecules, as claimed, share a general inventive concept, i.e., share a technical feature which makes a contribution over the prior art. (see, OG Notices: 27 March 2007; last paragraph of <http://www.uspto.gov/go/og/2007/week13/patsequ.htm>).

Chapter 10 of the ISPE Guidelines provides: "Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor persisted in on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or, in accordance with Article 33(6), by any additional document considered to be relevant. . . rigid rules cannot be given and each case is considered on its merits, the benefit of any doubt being given to the applicant." (emphasis added).

Applicant respectfully submits that the claims relating to pRET1100, i.e., claims 1-11, 17, 24, and 27-38, are directed to the same invention under the PCT unity of invention concept, as has been found by the Examiner at the International Searching Authority. The special technical feature that contributes over the prior art relates to pRET1100. Accordingly, Applicant respectfully requests that the examination be continued on claims 1-11, 17, 24, and 27-38. In this case, Applicant elects these claims without traverse.

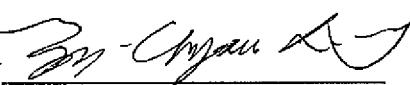
In the event that the Examiner is not persuaded by the above arguments, Applicant elects Group 1, including claims 1, 2, 5, 8, 9, and 27-28, which is directed to DNA fragment comprising SEQ ID NO: 35 plasmid, vector, and transformant containing said DNA fragment, for the continued prosecution.

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account No. 50-0591, under Order No. 07200/076001 from which the undersigned is authorized to draw.

Dated: November 30, 2007

Respectfully submitted,

By



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